

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) WUDENEH ZEWDIE, an individual)	
)	
Plaintiff,)	
)	
v.)	Case No.17-263-HE
)	
(1) SAFECO INSURANCE COMPANY)	
OF AMERICA, a New Hampshire Corporation)	
)	
Defendant.)	

NOTICE OF REMOVAL

COMES NOW Defendant Safeco Insurance Company of America and pursuant to 28 U.S.C. § 1446 and Fed. R. Civ. P. 81(c) states:

1. The above entitled suit was filed in the District Court of Oklahoma County, State of Oklahoma as Case No. CJ-2017-301 on January 18, 2017. Defendant Safeco Insurance Company of America was served through the office of the Oklahoma Insurance Commissioner on February 8, 2017. Receipt of service was the first notice Safeco Insurance Company of America received of this suit. In accordance with 28 U.S.C. §1446(a) and LCvR 81.2, a copy of the docket sheet and a copy of all documents filed or served in the Oklahoma County case are attached to this Notice as Exhibits "1" through "5". Attached as Exhibit "6" is the Summons served on the Oklahoma Insurance Department, whose stamp indicates it was received on February 8, 2017, as well as the Corporation Service Company's Notice of Service of Process, also indicating the Oklahoma Insurance Department was served

on February 8, 2017. Attached as Exhibit “7” is the Entry of Appearance and Reservation of Time which was timely filed on February 28, 2017, however it was filed with the previously-filed case number, CJ-2015-1330.

2. Plaintiff Wudeneh Zewdie is a citizen of the State of Oklahoma and a resident of Oklahoma County, Oklahoma.

3. Defendant Safeco is a corporation organized under the laws of the State of New Hampshire and for federal court jurisdiction/diversity of citizenship disclosure purposes, the principal place of business is 175 Berkeley Street, Boston, Massachusetts; therefore Safeco is deemed to be a New Hampshire citizen for purposes of diversity.

4. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1332. Removal is proper pursuant to 28 U.S.C. §1441, et seq.

5. In this case, Plaintiff brings causes of action for breach of an insurance contract and bad faith against Safeco Insurance Company of America, arising from a residential property damage claim.

6. Plaintiff seeks actual damages in excess of \$10,000 for breach of contract, damages in excess of \$10,000 for bad faith, and punitive damages in addition to costs, interest and a reasonable attorneys’ fee. Though the Petition fails to comply with 12 O.S. §2008(A)(2) in that it fails to set forth whether the amount sought as damages is in excess of the amount required for diversity jurisdiction pursuant to Section 1332 of Title 28 of the United States Code, the Petition clearly alleges damages exceeding \$75,000.00.

Title 23, Oklahoma Statutes §9.1 provides for three categories of punitive damage limits. In the first category, the lowest level of punitive damages, upon a finding by clear and convincing evidence that "[a]n insurer has recklessly disregarded its duty to deal fairly and act in good faith with its insured" the jury may award the greater of \$100,000.00 or the amount of actual damages awarded. Okla. Stat. tit. 23 §9.1(B). As such, seeking punitive damages establishes, on the face of the Petition, an amount in controversy of \$100,000.00, at the least, which exceeds the amount required for diversity jurisdiction.

The allegations of Plaintiff's Petition establish that the amount in controversy exceeds the amount required for diversity jurisdiction. 28 U.S.C. § 1446(c)(2).

7. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has jurisdiction because of the complete diversity of citizenship of the parties and there is a sufficient amount in controversy.

8. Pursuant to 28 U.S.C. § 1446(a), Defendant acknowledges that this Notice of Removal is signed and filed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant, Safeco Insurance Company of America requests this Notice of Removal be accepted by this Court and that the lawsuit proceed as an action properly removed to this Court's jurisdiction.

Respectfully submitted,

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Attorneys for Defendant

Safeco Insurance Company of America

CERTIFICATE OF SERVICE

X I hereby certify that on March 9, 2017, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrant:

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